RETAIL SALES TAX
RCW 82.08

Tax Base — Selling price of tangible personal property and certain services purchased at retail (i.e. by consumers). In general, the tax applies to goods, construction including labor, repair of tangible personal property, lodging for less than 30 days, telephone service, and participatory recreational activities. Some personal and professional services, such as landscape maintenance and physical fitness, are taxable. The basic definition of items and transactions subject to sales tax appears in RCW 82.04.050. (NOTE: use tax applies to taxable items used within the state, if retail sales tax was not paid; see following section.)

Tax Rate — 6.5 percent levied by the state. Including local sales taxes (see section on local sales/use tax), the combined sales tax rate now ranges from 7.0 to 8.9 percent.

Levied by — State (also see section on local sales/use taxes).

Recent Collections ($000)

Fiscal Year	Collections	% Change	% of All State Taxes
2001	$5,519,106	2.1%	46.5%
2000	5,405,602	9.2	45.8
1999	4,948,255	6.1	42.8
1998	4,663,437	6.6	41.8
1997	4,373,041	5.0	41.7
1996	4,164,894	1.0	41.8
1995	4,121,835	5.9	42.8
1994	3,892,673	5.8	43.2
1993	3,679,724	5.5	44.2
1992	3,487,626	5.7	44.2

Administration — Department of Revenue. The tax is collected from purchasers by retail vendors at the time of sale using tax rate schedules supplied by the Department. Sales tax receipts are legally considered as trust funds of the state. Total transactions are reported on the seller's combined excise tax return (Form # 40 2406) and receipts are forwarded to the Department on a monthly or quarterly basis. Since 1997, the Department has allowed very small retailers with less than $2,000 in annual sales tax collections to send in these collections accompanied by a remittance coupon rather than filing the combined excise tax return, as long as their business tax liability is below the small business credit (see B&O tax).

Distribution of Receipts State general fund.

A small portion of the sales tax has been earmarked for debt service on state bonds in prior years. The amount is now negligible, as many state bonds have been refinanced and the principal and interest is paid directly from the general fund, rather than earmarking of sales tax receipts.

Sales tax paid on water pollution control devices that are funded from the water quality account is earmarked for the water quality account (RCW 82.32.390). Sales tax paid on expansion of the state convention center is credited to the convention center account (RCW 67.40.160).

Receipts are also transferred to the various local programs indicated below in which local taxes are credited against the state sales tax.

Local Taxes Credited Against the State Sales Tax

- A 2.0 percent hotel/motel tax upon accommodations is provided for cities and counties. Receipts are credited against the state sales tax, thus shifting the burden to the state general fund. Approximately 134 cities and 33 counties currently participate in the program. (RCW 67.28.180 - 67.28.1801)

- A 2.0 percent hotel/motel tax is provided within Seattle for use in financing expansion of the state convention center. This tax was first levied on January 1, 2000. Funds are taken from the state general fund via the sales tax credit and transferred to the state convention and trade center account as provided in RCW 67.40.170. (RCW 67.40.130 - 67.40.140)

- A local tax of 0.017 percent levied in King County since January 1, 1996 diverts a portion of the 6.5 percent state sales tax reported from King County retailers to pay the state's share of the principal and interest payments on the professional baseball stadium (Safeco Field) in Seattle. The local tax is credited against the state sales tax thus shifting the burden to the state general fund. (RCW 82.14.0485)

- A local tax of 0.016 percent is authorized for county public stadium authorities to finance a stadium and exhibition center to be used for professional football and soccer. The local tax is credited against the state sales tax thus shifting the burden to the state general fund. This tax was first levied in King County in August, 1997. (RCW 82.14.0494)

- Local taxes of 0.08 percent are provided for rural counties (those with an average population density of less than 100 residents per square mile). Receipts are to be used for public facilities and are credited against the state sales tax, thus shifting the burden to the state general fund. Once levied, the diversion of state sales tax may continue for up to 25 years, regardless of whether the local jurisdiction remains in distressed status. Authorization for the local taxes was effective on July 1, 1998; to date 31 counties have utilized this authority. (RCW 82.14.370)

- Local taxes of 0.033 percent are established for public facility districts to finance construction of new or existing regional centers. These are presumed to include convention centers and special events facilities. In order to utilize the local tax, construction of the facility must commence by January 1, 2003. These taxes were authorized in 1999; to date nine public facility districts have levied the 0.033 percent state-credited local tax. (RCW 82.14.390)

Exemptions, Credits and Deferrals

The definition of retail sale is contained in RCW 82.04.050. Because services are not specifically defined as being taxable, many services rendered to persons and businesses are not subject to sales tax. This includes medical, legal, accounting and similar services performed by professionals, as well as services of barber shops, beauty parlors, funeral homes, cable TV companies, etc. The definition also excludes from tax transactions such as sales for resale (raw materials and component parts of items produced for sale) because they are not retail sales to final consumers; janitorial and laundry services; charges for labor and service of contractors who build roads and structures for the federal government; and feed, seed, fertilizer, spray and horticultural services used in commercial agricultural production.

In addition to definitional exclusions, there are exemptions for specific items or types of purchasers. Some of these are listed below, grouped by major category.

EXAMPLES OF EXEMPTIONS - FARM PRODUCTS:

- items sold via auction sales on farms;
- livestock used for breeding purposes;
- materials used in packing fresh horticultural products for producers;
- equipment and structures for disposing of straw-based products, as an alternative to field burning .
- propane/natural gas used to heat barns and straw/wood shavings used in production of chickens.
- pharmaceuticals used to treat commercial livestock.
- equipment used for nutrient management and to treat manure at commercial dairies.

EXAMPLES OF EXEMPTIONS - PRODUCER GOODS:

- new and replacement machinery and equipment used in a manufacturing process;
- a variety of specific items e.g. ferrosilicon, form lumber, and wearing apparel;
- air pollution equipment installed in thermal, coal-fired electric generating plants;
- coal used to generate electricity at thermal generating facilities;
- film and video production equipment;
- pollution control equipment installed in thermal electric "peaking" plants.

EXAMPLES OF EXEMPTIONS - INTERSTATE COMMERCE/NONRESIDENTS:

- motor vehicles, airplanes, locomotives, vessels, and railroad equipment used in interstate commerce;
- motor vehicles, trailers, campers, watercraft and farm equipment sold to nonresidents;
- items delivered out of state to nonresidents;
- purchases of items for use outside Washington by residents of states with sales taxes of less than 3.0%.

EXAMPLES OF EXEMPTIONS - PUBLIC ACTIVITIES:

- items which the state is constitutionally prohibited from taxing (U.S. government, Indian tribes, etc.);
- fuel used in urban transportation;
- sand and gravel for streets and roads of local governments;
- purchase and repair of government-owned ferry boats;
- vehicles used in commuter ride-sharing programs (vanpools);
- purchases by regional transit authority (Sound Transit).

EXAMPLES OF EXEMPTIONS - OTHER ITEMS:

- casual/isolated sales by persons not engaged in selling that type of item;
- the value of trade-ins accepted by dealers (e.g. used vehicles);
- newspapers;
- motor vehicle and special fuel that is subject to fuel tax (i.e., fuel used on public highways);
- prescription drugs and medical devices (eyeglass lens, orthotic items, hearing aids, etc.);
- returnable food and beverage containers;
- food for off-premises consumption;
- local residential telephone service and coin-operated telephone service;
- charges by nonprofit youth organizations for amusement/recreation and physical fitness activities;
- items purchased by artistic/cultural organizations for performance/display purposes;
- remittance of state sales tax on construction of certain large warehouse/distribution facilities;
- sales made for fund-raising purposes by nonprofit organizations;
- equipment used to produce electric power (> 200 watts) via alternative energy resources.

REFUNDS

- bad debts which are uncollectible by the seller;
- sales or use tax previously paid upon the item in other states.

SALES TAX DEFERRALS

- Sales tax deferral/exemption is provided for new or expanding manufacturing or R&D firms in rural counties (those with an average population density of less than 100 residents per square mile - currently 31 of the 39 counties). Also, firms located in community empowerment zones (CEZ) which are not within a rural county may qualify. The tax on construction labor and materials, as well as machinery (separate exemption is also available under a 1995 statute), was originally deferrable for three years followed by a five year repayment period. However, since July 1, 1994 the sales tax need not be repaid if employment goals are maintained, thus effectively converting the program to an outright exemption. Applications may be made for the deferral/exemption program until July 1, 2004. (RCW 82.60)
- Sales tax paid by high technology firms for equipment used for research and development or pilot scale manufacturing facilities is deferrable for three years and repayable over five years (five year deferral and six year repayment for biotech firms that require F.D.A. licenses). Construction of facilities is exempt from

sales tax rather than deferrable. Applications may be made for the deferral/exemption program until July 1, 2004. (RCW 82.63)

- A public facilities district in any county may apply for deferral of sales tax paid on construction of public facilities such as a stadium or convention center. Pursuant to this authority, sales tax on costs of construction of the professional baseball stadium in King County (Safeco Field) is currently being deferred. The deferral period lasts until four years after the facility is complete, followed by a repayment period of ten years. (RCW 36.100.090)
- Sales tax paid on construction of a thoroughbred horse racing track in Western Washington is deferrable for ten years and repaid over the following ten years. The Emerald Downs facility in Auburn was the beneficiary of this program. (RCW 82.66)
- A public stadium authority may apply for deferral of sales tax on the construction of a stadium and exhibition center. This statute was enacted in 1997 to facilitate a new football stadium to replace the Kingdome. The tax may be deferred for four years following completion of the facility; repayments are to be made over the following ten years. Repaid tax is applied to retirement of bonds. (RCW 36.102.070)
- Deferral of sales tax is allowed for site preparation, construction and acquisition or rental of related equipment in conjunction with a second bridge across Puget Sound at the Narrows (State Route #16). The sales tax is deferrable for up to four years after completion of the project, followed by repayment over a ten year period. (RCW 47.46.060)

History

The sales tax was adopted in 1935 as an integral part of the Revenue Act, which established many of the current state taxes. The initial rate was 2.0 percent effective May 1, 1935 and it was limited to sales of tangible personal property. Most food items, except dairy products, eggs, unprocessed fruit and vegetables, and bread, were taxable. Many changes have been made to the base of the tax. Major revisions include:

1939 - all food items and services to personal property became taxable.
1941 - services rendered to real property subject to tax.
1951 - tax extended to hotel and motel accommodations.
1959 - tax extended to rental of personal property and clearing land.
1961 - tax extended to amusement and recreation activities, parking of autos, title and escrow services.
1965 - exemption for residents of states with sales taxes below 3.0 percent.
1967 - initial sharing of tax (2 percent of the 4.5 percent rate) on hotel/motel accommodations with local government (see local hotel/motel tax).
1970 - initial local sales/use tax authorized (see local sales/use tax).
1971 - state road construction is subject to tax.
1972 - sales tax deferral for certain manufacturing improvements.
1974 - prescription drugs exempted.
1975 - tax paid by the contractor as a consumer is extended to materials incorporated into construction projects for the federal government (upheld by the U.S. Supreme Court in 1983).
1977 - voters approve initiative exempting food for off-premises consumption, effective July 1, 1978.
1981 - the 1972 manufacturers tax deferral is repealed.
1982 - tax temporarily reimposed on food for 14 months.
1983 - telephone service, except local residential and coin-operated, subject to tax.

1984 - voters approve initiative exempting trade-ins.
1985 - sales tax deferral for qualified improvements by manufacturing and R&D firms.
1993 - tax extended to landscape maintenance, tour operators, physical fitness and certain personal services such as health spas, massage (repealed in 1995), and tanning and dating services.
1994 - tax deferral for high technology businesses.
1995 - exemption for manufacturing machinery and equipment.
1997 - remittance for state sales tax paid on construction of certain large warehouse and distribution facilities and grain elevators.

Numerous changes in the sales tax rate have occurred since 1935. The state rate has been increased eight times and twice it has been reduced. The changes affecting the state rate are listed below; see the local sales/use tax section for information on local rate changes.

1941 - 2.0 to 3.0 percent (5/1/41);
1955 - 3.0 to 3.3 percent (5/l/55);
1959 - 3.3 to 4.0 percent (4/1/59);
1965 - 4.0 to 4.2 percent (6/1/65);
1967 - 4.2 to 4.5 percent (7/1/67);
1976 - 4.5 to 4.6 percent (6/1/76);
1979 - 4.6 to 4.5 percent (7/1/79);
1981 - 4.5 to 5.5 percent (12/4/81);
1982 - 5.5 to 5.4 percent (5/1/82);
1983 - 5.4 to 6.5 percent (3/1/83).*

*This rate increase was initially effective in 36 counties, excluding Clark, Cowlitz and Skamania. The State Supreme Court overturned the differential state sales tax rate, effective 1/1/85, and the 6.5 percent rate became uniform statewide.

Discussion/Major Issues

The sales tax is by far the largest revenue source for the state. Together, revenues for the sales and its companion use taxes account for slightly more than 50 percent of state revenues supporting the state general fund. The state rate is exceeded only by the 7.0 percent rate levied by Mississippi and Rhode Island (neither of which allow local sales taxes). Including local sales taxes, the maximum combined rate of 8.9 percent in Washington is exceeded only in a few other states with significant local sales tax rates (e.g., Louisiana, Oklahoma, and Alabama) and usually the higher rate in these states is levied only in a few local jurisdictions. In contrast, in Washington it is estimated that a combined state and local sales tax rate of 8.5 percent or more now applies to over 60 percent of all taxable retail sales within Washington. A combined rate of 8.8 or 8.9 percent (most of King and Snohomish counties) applies to about 48.5 percent of all retail sales in the state.

A sales tax has certain desirable features. It is relatively "popular" with taxpayers, partly because it is usually paid in small increments rather than in a large lump sum. Even in situations where a ticket item or construction project is purchased, often the cost of the item or the project is financed over time and the sales tax liability is spread over an extended period of time. The sales tax can be a large revenue producer with very low costs of administration compared with other revenue sources, because the tax is actually collected and reported by approximately 170,000 retail firms, not the actual purchasers who pay the tax. By taxing consumption, it assures that all persons contribute toward the cost of government services, even low-income households and most businesses. It is one method of obtaining tax from persons who are in the state temporarily (tourists, migrant workers, etc.) and from materials incorporated into federal government construction projects (in which the contractors are considered to be the consumers of the materials).

However, there are many objections to the tax, mostly as a result of the very high rate. Many retailers believe that they should be compensated for their costs in collecting the tax (currently 26 of the 45 states that levy sales taxes at the state level allow some discount, usually about 1-3 percent of their collections); Washington provides no discount to sellers.

Also, the high tax rates may encourage Washington purchasers to seek other forms of transactions upon which it is difficult to effectively enforce the sales or use tax, e.g., purchases via mail order catalogues, the Internet, through the "underground economy" consisting of unreported cash transactions, and by buying directly in other states. In particular, the difficulty of collecting sales tax from vendors (or use tax on Washington purchasers) on transactions involving mail order or the Internet is viewed as a growing problem for tax compliance in states like Washington that rely heavily on the retail sales tax. The latest available estimates indicate that E-commerce and mail order purchases alone are costing state and local jurisdictions approximately $260 million in annual retail sales/use tax revenues; this amount is likely to grow significantly in the coming years.

Because of the heavy initial impact of sales tax on construction due to the broad tax base and the high tax rate, the tax may inhibit the development of new businesses in Washington, especially capital intensive industries. Despite the sales tax deferral/exemption program for manufacturers in rural counties and the exemption of manufacturing machinery, the tax may be a deterrent to economic development by other types of firms. However, significant progress has been made in recent years in providing deferrals and exemptions to alleviate the sales tax burden for new and expanding industries.

The proximity of retail outlets in adjacent states with lower (or no) tax rates provides opportunity for Washington residents to effectively escape the tax, especially in the Clark County area. This "border problem" results in the following adverse impacts: (1) local governments receive abnormally low local sales tax revenues; (2) evasion impacts the state general fund, causing an estimated $67 million reduction annually; (3) Washington retailers in border areas suffer low sales volumes due to untaxed out-of-state competitors; and (4) an inequity results for other Washington residents who do not have the same opportunity to avoid the tax. The state has attempted to at least partially offset some of these problems by encouraging nonresidents to make purchases in Washington by providing exemption for residents of states that have no sales tax (or a sales tax rate no greater than 3 percent); this exemption applies only to items purchased in Washington but which are consumed outside the state.

As a result of federal tax reform in 1986, the federal income tax deduction for state and local sales taxes was eliminated. This causes a higher federal income tax burden for Washington residents, estimated at $460 million annually. Furthermore, state income taxes remain deductible for households that itemize. Therefore, a significant inequity exists for Washington residents vis-a-vis other states with income taxes that do not rely so heavily upon sales taxes.

Sales tax collections can fluctuate widely as economic conditions change, producing difficulties for governmental budgets during recessionary periods. Consumer spending on taxable items tends to decline faster and further than does overall personal income during times of economic slowdown or recession. For example, during the early 1980s sales tax receipts grew very slowly and actually declined in 1981, as consumers retrenched during the recession. Conversely, the sales tax can produce unanticipated revenue surpluses during good times, largely as a result of debt-financed purchases by consumers.

Finally, despite the exemption of food products, the tax is regressive, because lower income households must spend a higher percentage of their income for necessities that are subject to sales tax. In contrast, higher income households are able to devote a greater share of their income on nontaxable items: e.g., savings, investment in stocks, purchase of real estate, travel outside the state, etc.. Income is generally considered a better measure of ability to pay tax than is consumption, and, in terms of income, the sales tax imposes a greater relative burden at lower income levels. Further, the tax discriminates on the basis of age and size. Households that are larger and/or in their formative years pay a substantially greater tax burden, as they acquire household goods, autos, etc., than do families that have fewer and/or older members.